

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

ALBERTO MORETA,

Defendant.

19-Cr-307 (SHS)

ORDER

SIDNEY H. STEIN, U.S. District Judge.

The Court has received the parties' letters filed May 25, 2021 (Gov't Ltr., ECF No. 99; Def. Ltr., ECF No. 100) pursuant to this Court's March 2 order (ECF No. 87). Defense counsel's renewed request for an adjournment of the trial of this action is denied. The Court concludes that defendant's constitutional claims—which "include but are not limited to" alleged violations of Moreta's Fifth and Sixth Amendment rights to a fair cross-section of jurors, a constitutionally adequate *voir dire*, confrontation of witnesses, effective assistance of counsel, a public trial, and "a trial unimpeded by being a masked defendant before a jury who will likely be distracted and pressured by the fear of contagion and one which occurs inside a plexi-glas encasement"—lack merit. (*See* Def. Ltr. at 13-16.)

These claims are vague, theoretical, and based on conjecture rather than facts. They fail to establish that Moreta's constitutional rights will be violated by proceeding to trial on June 15. This District has taken extensive and to-date successful measures to establish safe and effective trial procedures without sacrificing defendants' rights. *See Response to COVID-19 (Coronavirus)*, S.D.N.Y. (last updated May 18, 2021), <https://www.nysd.uscourts.gov/covid-19-coronavirus>. Indeed, having recently resumed conducting criminal jury trials itself, this Court has confirmed firsthand the constitutional adequacy of these thorough, well-conceived procedures. As of today, the COVID-19 prognosis continues to improve, with cases and deaths plummeting week-over-week in both New York and Massachusetts. *See Tracking Coronavirus in New York: Latest Map and Case Count*, N.Y. Times (last updated May 26, 2021), <https://www.nytimes.com/interactive/2021/us/new-york-covid-cases.html>; *Tracking Coronavirus in Massachusetts: Latest Map and Case Count*, N.Y. Times (last updated May 26, 2021), <https://www.nytimes.com/interactive/2021/us/massachusetts-covid-cases.html>. The Court thus holds that proceeding to trial at this stage of the pandemic does not threaten defendant's Fifth or Sixth Amendment rights.

Defendant's request for each party to have thirty minutes of attorney-conducted *voir dire* is denied. The Court will evaluate all proposed *voir dire*—including defense counsel's supplemental requests provided on May 25 (Def. Ltr. at 6-11)—and determine which questions to ask in compliance with Fed. R. Crim. P. 24(a)(2). The Court has also received, and will consider, all proposed jury charges, including those supplemental proposed charges provided by defense counsel on May 25. (*Id.*)

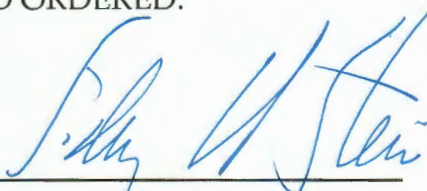
Any remaining outstanding matters shall be resolved at the final pretrial conference on June 10. Any responses on these matters remain due by June 1. Accordingly,

IT IS HEREBY ORDERED that:

1. Defendant's renewed motion for an adjournment is denied. The trial of this action shall commence on June 15, 2021, at 9:30 a.m.
2. Defendant's motion for thirty minutes of attorney-conducted *voir dire* is denied.
3. There will be a final pretrial conference on June 10, 2021, at 2:30 p.m. The conference will take place in Courtroom 23A, U.S. Courthouse, 500 Pearl Street, New York, New York. The defense may waive defendant's appearance at that conference if it so wishes.

Dated: New York, New York  
May 26, 2021

SO ORDERED:



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Sidney H. Stein, U.S.D.J.